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Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure
Serial No.: 10/626,142
Confirmation No.: 9324
Filed: 24 July 2003
For: DENTAL WHITENING COMPOSITIONS AND METHODS

Page 2 of 5

Remarks

The Office Action mailed 6 June 2008 has been received and reviewed. No claims having been amended, canceled, or added herein, the pending claims are claims 1-3, 5-17, 19-25, 27-32, 34-43, and 45-80. Reconsideration and withdrawal of the rejections are respectfully requested.

Rejections under 35 U.S.C. §103

The Examiner rejected under 35 U.S.C. §103(a) claims 1-3, 5, 8-11, 14-17, 19, 22, 30-32, 34, 36-43, 45-64, and 69-80 as being unpatentable over Mitra et al. (U.S. Patent No. 5,888,491) in view of Majeti et al. (U.S. Patent No. 7,025,950); and claims 6-7, 12-13, 20-21, 23-25, 27-29, and 65-68 as being unpatentable over Mitra et al. in view of Majeti et al., the combination being taken in further view of Aasen et al. (U.S. Patent No. 4,871,786). Applicants respectfully traverse the rejections.

To support the rejections, Applicants respectfully submit that the Examiner is improperly relying on Mitra et al. for disclosing a polymer that includes, among other things, a repeating unit including a polar or polarizable group and a repeating unit including a fluoride releasing group, *wherein the repeating unit including the polar or polarizable group is different than the repeating unit including the fluoride releasing group* (e.g., independent claims 1, 8, 15, 23, 30, 37, 41, and 46-52). Specifically, the Examiner alleged that Mitra et al. disclose that "Unit B monomers include branched or cyclic alcohols, i.e. compounds with a polar or polarizable hydroxy group (column 5, lines 16-20)." (Office Action dated 6 June 2008, page 3, lines 12-14.) Applicants earnestly disagree.

Applicants respectfully submit that the Examiner has improperly parsed the language of Mitra et al. In actuality, the passage of Mitra et al. pointed to by the Examiner reads as follows: "Examples of unit B monomers include the lower to intermediate methacrylic acid esters of 1-12 carbon straight, branched or cyclic alcohols." Applicants respectfully submit that it would be abundantly clear to one of skill in the art, in view of the disclosure of Mitra et al. as a whole, that

Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure

Page 3 of 5

Serial No.: 10/626,142

Confirmation No.: 9324

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For: DENTAL WHITENING COMPOSITIONS AND METHODS

the recited passage indicates that unit B monomers can be methacrylic acid esters of 1-12 carbon straight alcohols, methacrylic acid esters of 1-12 carbon branched alcohols, or methacrylic acid esters of 1-12 carbon cyclic alcohols. Applicants note that *carboxylic acid esters of alcohols* are *not alcohols*. Further, Applicants have been unable to locate any support in Mitra et al. for the Examiner's allegation that unit B monomers can be branched or cyclic alcohols. Finally, it is unclear to Applicants' Representatives how a branched or cyclic alcohol, without more, could even be a monomer. For example, Mitra et al. recite that "[t]he unit B is derived from acrylate or methacrylate or other vinyl polymerizable starting monomers" (column 5, lines 11-12).

For at least this reason, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness for claims 1-3, 5, 8-11, 14-17, 19, 22, 30-32, 34, 36-43, 45-64, and 69-80 being unpatentable over Mitra et al. in view of Majeti et al.; and claims 6-7, 12-13, 20-21, 23-25, 27-29, and 65-68 being unpatentable over Mitra et al. in view of Majeti et al., the combination being taken in further view of Aasen et al.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

The Examiner rejected claims 30-32, 34-35, 37-43, 45, 50-52, and 60-68 under 35 U.S.C. §103(a) as being unpatentable over Rozzi et al. (U.S. Patent No. 5,607,663) in view of Majeti et al. (U.S. Patent No. 7,025,950). Applicants respectfully traverse the rejections.

To support the rejection, Applicants respectfully submit that the Examiner is improperly relying on Rozzi et al. for disclosing a polymer that includes, among other things, a repeating unit including a polar or polarizable group and a repeating unit including a fluoride releasing group, *wherein the repeating unit including the polar or polarizable group is different than the repeating unit including the fluoride releasing group* (e.g., independent claims 8, 15, 23, 30, 37, 41, 50-52, and 46-52, which are rejected or have rejected claims depending therefrom). Specifically, the Examiner alleged that Rozzi et al. disclose that "Unit B monomers include branched or cyclic alcohols, i.e. compound with a polar or polarizable hydroxy group (column 4,

Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure

Page 4 of 5

Serial No.: 10/626,142

Confirmation No.: 9324

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lines 35-40)." (Office Action dated 6 June 2008, page 4, lines 16-18.) Applicants earnestly disagree.

Applicants respectfully submit that the Examiner has improperly parsed the language of Rozzi et al. In actuality, the passage of Rozzi et al. pointed to by the Examiner reads as follows: "Examples of unit B monomers include the lower to intermediate methacrylic acid esters of 1-12 carbon straight, branched or cyclic alcohols." Applicants respectfully submit that it would be abundantly clear to one of skill in the art, in view of the disclosure of Rozzi et al. as a whole, that the recited passage indicates that unit B monomers can be methacrylic acid esters of 1-12 carbon straight alcohols, methacrylic acid esters of 1-12 carbon branched alcohols, or methacrylic acid esters of 1-12 carbon cyclic alcohols. Applicants note that *carboxylic acid esters of alcohols* are *not alcohols*. Further, Applicants have been unable to locate any support in Rozzi et al. for the Examiner's allegation that unit B monomers can be branched or cyclic alcohols. Finally, it is unclear to Applicants' Representatives how a branched or cyclic alcohol, without more, could even be a monomer. For example, Rozzi et al. recite that "[t]he unit B is derived from acrylate or methacrylate or other vinyl polymerizable starting monomers" (column 4, lines 30-31).

For at least this reason, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness for claims 30-32, 34-35, 37-43, 45, 50-52, and 60-68 being unpatentable over Rozzi et al. in view of Majeti et al.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

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Page 5 of 5

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Summary

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives at the telephone number listed below if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

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August 6, 2008
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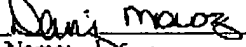
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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 6th day of August, 2008, at 11:35am (Central Time).

By: 
Name: Dani Moroz